

CONNECTICUT LEGAL RIGHTS PROJECT

P.O. Box 351, Silver Street, Middletown, CT 06457
Telephone (860) 262-5787 • Fax (860) 262-5035

TESTIMONY OF SALLY R. ZANGER, STAFF ATTORNEY CONNECTICUT LEGAL RIGHTS PROJECT

HB NO. 5373

HOUSING COMMITTEE PUBLIC HEARING MARCH 4, 2010

Connecticut Legal Rights Project (CLRP) urges the Committee NOT to support the proposed bill.

CLRP is a legal services organization that advocates for low-income individuals who have, or are perceived to have, psychiatric disabilities. We promote initiatives that integrate clients into the community. An important part of our work is protecting people's housing, which includes negotiating with landlords and representing tenants in summary process (evictions).

CLRP opposes this bill because there is no way to accomplish the goal of the bill without losing vital longstanding protections for tenants in Connecticut.

The goal of the bill is to make it unnecessary to use the summary process proceeding in court to remove an unwanted "guest" from a property. We understand the good intentions behind the bill. It seems like a simple problem with a straightforward solution. But in reality, the solution will cause many more problems than it could ever solve. The problems will be more serious and will cause damage that is more horrific than the difficulty that this bill is aimed at alleviating.

The first problem with the bill is that it defines a guest to include a large portion of tenants in Connecticut. Many, perhaps a majority, of Connecticut tenancies are on oral leases. The bill requires a written lease document for a person to be a resident or tenant, and puts all of those very legitimate tenants at risk of becoming victims of self help evictions. Even if the bill were drafted more narrowly, it could not be nuanced enough. However, the good news is that the bill is not necessary.

Before I explain why we already have sufficient law to deal with this problem, I want to make clear that my clients are sometimes in the difficult situation this bill is aimed at – someone has moved in with them who is not on the lease, who is not welcome. Or someone comes for a visit and stays beyond the time limit put on visits by the landlord or housing authority, and that someone refuses to leave. The presence of these interlopers is not only uncomfortable and unwanted but it can jeopardize a tenant's own housing. I do understand this problem because it is a problem that my clients face. However, the situation where a person can be locked out of his or her home based on the provisions of this bill is more likely to occur and is more dangerous.

The line between a guest and a tenant, between someone who is and someone who is not entitled to the due process protections afforded by our Summary Process statutes, is not always a straight or bright line. It is not always simple to distinguish. Life is just not simple! There is a long-standing and well-respected body of law, made up of various statutes and some case law

that includes many factors to consider in making the determination of who is "transient" and thus not entitled to summary process protection. While a written lease may often be clear evidence that a person has a right to remain in residence until evicted by a court of law, the converse is not true: the absence of a written document does not mean that a person does not have that right. That determination is made by examining a number of factors that the statutes and the courts have set out. Length of stay, control over the dwelling (i.e., possession of a key, access to all rooms) are only a few of the factors to consider.

We can rely on the statutes that we already have that look at the detailed facts to determine whether a person is entitled to the due process protections of summary process before being ejected from a dwelling.

This bill risks locking out people who are entitled to the protections of due process. We have laws already that deal with these issues. Like all laws, there are times when either they are not enforced uniformly, or they do not apply perfectly to the situation, or we don't obtain the results we think we should. Sometimes people are locked out when they are entitled to court protections. Sometimes it is necessary to go to court to eject someone who is not entitled to that level of protection. . (Sometimes a judge decides a case against my client that I think we should have won based on the law!)

Although in the present system there are occasionally instances when either the law is not applied correctly, or the result is not what we consider to be the right one, those occasional unfortunate situations do arise in a society of laws. Occasional inconsistent results are the price that must be paid to live in a society that tries to balance the rights of its citizens. It is a price worth paying to protect people in Connecticut in their homes.

Respectfully Submitted,

Sally R. Zanger
Staff Attorney